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AMENDED IN SENATE AUGUST 5, 1996

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AMENDED IN ASSEMBLY APRIL 25, 1995

AMENDED IN ASSEMBLY MARCH 15, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

## ASSEMBLY BILL

No. 95

Introduced by Assembly Members ~~Valerie Brown, Alpert, Bowen, Davis, Ducheny, Escutia, Friedman, Kuehl, Martinez, Mazzoni, Kevin Murray, and Speier~~ (Coauthors: ~~Senators Costa, Hurtt, Monteith, O'Connell, and Peace~~)  
*Assembly Member Bowler*

January 5, 1995

~~An act to amend Sections 207, 208, 209, 290, 667.7, 667.71, 667.8, 667.83, 667.85, 669, 1203.066, and 2933.5 of, and to repeal and amend Section 667.61 of, the Penal Code, relating to crimes. An act to add and repeal Sections 13202.3 and 14907 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 95, as amended, ~~V. Brown~~ *Bowler*. ~~Crimes: kidnapping~~  
*Vehicles: driver's license suspension: driving under the influence.*

(1) *Until November 30, 1995, the Department of Motor Vehicles, with specified exceptions, was required to*

*immediately suspend or delay the privilege of any person to drive a motor vehicle for 6 months upon receipt of a duly certified abstract of the record of any court showing that the person had been convicted of any specified controlled substance offense. The department was also required, for each successive offense, to suspend or delay the privilege for an additional 6 months.*

*Until November 30, 1995, a court that convicted a person of any specified controlled substance offense was required to require all driver's licenses held by the person to be surrendered to the court. The court was also required to transmit a certified abstract of the conviction, together with any driver's license surrendered, to the department not later than 10 days after the conviction.*

*Until November 30, 1995, the payment of a \$24 fee was required to be made to the department before a driver's license could be issued, reissued, or returned to a person after the suspension or delay of a person's privilege to operate a motor vehicle pursuant to the above provisions.*

*This bill would reenact those provisions and would repeal them as of March 1, 1997, thereby imposing a state-mandated local program by imposing requirements on the courts.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

*(3) This bill would declare that it shall take effect immediately as an urgency statute.*

~~*(1) Existing law provides that every person, who for the purpose of committing any lewd or lascivious act, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14*~~

~~years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.~~

~~This bill would instead provide that every person who, by false promises, misrepresentations, or the like, and with the intent to either unlawfully deprive the parent or legal guardian of the custody of the child or to commit a felony upon the child, moves a child under the age of 14 into another part of the same county or out of the county, the state, or the country, is guilty of kidnapping. The bill also would provide that those provisions do not apply to the taking, detaining, or concealing of a minor child by a biological parent, natural father, adoptive parent, or person who has been granted access to the minor child by a court order, unless the child is taken, detained, or concealed with the intent to commit any lewd or lascivious act. The bill would impose a state-mandated local program by expanding the scope of existing crimes.~~

~~(2) Existing law provides that any person who kidnaps another with the intent to commit rape, oral copulation, sodomy, or rape by instrument, shall be punished by imprisonment in the state prison for 5, 8, or 11 years.~~

~~This bill would delete this provision and would provide, instead, that under specified circumstances any person who kidnaps or carries away any individual with the intent to commit robbery, rape, spousal rape, sodomy, oral copulation, lewd or lascivious acts on a child under the age of 14 years, or rape by instrument shall be punished by imprisonment in the state prison for life with the possibility of parole. By expanding the scope of existing crimes, the bill would impose a state-mandated local program. The bill also would make additional conforming changes.~~

~~(3) Existing law defines a habitual sexual offender as a person who previously has been convicted of one or more specified sexual offenses and who is convicted in the present proceeding of one of those offenses.~~

~~This bill would add kidnapping with the intent to commit rape, spousal rape, oral copulation, sodomy, lewd or lascivious acts, and rape by instrument to the list of sexual offenses specified for the purpose of the definition of a habitual sexual offender.~~

~~(4) Existing law provides that any person who is convicted of any specified felony sexual offense, and who, for the purpose of committing that sexual offense, kidnapped the victim, as specified, shall be punished by an additional 9-year term.~~

~~Existing law also provides that any person who is convicted of any specified felony sexual offense, and who, for the purpose of committing that sexual offense, kidnapped the victim, who was under the age of 14 years at the time, as specified, shall be punished by an additional 15-year term.~~

~~This bill would specify other types of kidnapping to which these provisions shall apply.~~

~~(5) Existing law provides that every person who is convicted of any specified felony, and who previously has been convicted 2 or more times, on charges separately brought and tried, and who previously has served 2 or more separate prior prison terms of any of those felonies, shall be ineligible to earn credit on his or her term of imprisonment.~~

~~This bill would add specified types of kidnapping to the list of felonies for which credit cannot be earned.~~

~~(6) Existing law requires specified sexual offenders to register with local law enforcement agencies and makes it a felony to willfully fail to register.~~

~~This bill would add specified types of kidnapping to the list of offenses that subject a person to these provisions. By expanding the scope of a crime and by imposing additional registration duties on local law enforcement agencies, the bill would impose a state-mandated local program.~~

~~(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 207 of the Penal Code is~~

2 *SECTION 1. Section 13202.3 is added to the Vehicle*  
3 *Code, to read:*

4 *13202.3. (a) The department shall immediately*  
5 *suspend or delay the privilege of any person to drive a*  
6 *motor vehicle for six months upon receipt of a duly*  
7 *certified abstract of the record of any court showing the*  
8 *person has been convicted of any controlled substance*  
9 *offense specified in subdivision (c). For each successive*  
10 *offense, the department shall suspend the person's*  
11 *driving privilege for those possessing a license or delay*  
12 *the eligibility for those not in possession of a license at the*  
13 *time of their conviction for an additional six months. This*  
14 *subdivision does not apply if, upon conviction, the court*  
15 *orders the department to suspend, restrict, or revoke the*  
16 *driving privilege as required under Section 13202 or*  
17 *13202.5, if the suspension, restriction, or revocation is for*  
18 *a period of not less than six months.*

19 *(b) In the absence of compelling circumstances*  
20 *warranting an exception, whenever a court in this state*  
21 *convicts a person of any controlled substance offense*  
22 *specified in subdivision (c), the court in which the*  
23 *conviction occurs shall require all driver's licenses held by*  
24 *the person to be surrendered to the court. The court shall,*  
25 *not later than 10 days after the conviction, transmit to the*  
26 *department a certified abstract of the conviction,*  
27 *together with any driver's license surrendered.*

28 *(c) This section applies to convictions involving*  
29 *controlled substances contained in the following*  
30 *provisions:*

1     (1) *The laws of the United States, each state, territory,*  
2 *or possession of the United States, the District of*  
3 *Columbia, or the Commonwealth of Puerto Rico. For*  
4 *purposes of this subdivision, “conviction” means a*  
5 *conviction of any controlled substance offense prohibited*  
6 *by any federal or state law, or a forfeiture of bail, bond,*  
7 *or other security deposited to secure appearance by a*  
8 *person charged with having committed any controlled*  
9 *substance offense.*

10    (2) *Division 10 (commencing with Section 11000) of*  
11 *the Health and Safety Code, involving the possession,*  
12 *distribution, manufacture, cultivation, sale, or transfer of*  
13 *any substance or the attempt or conspiracy to possess,*  
14 *distribute, manufacture, cultivate, sell or transfer any of*  
15 *those substances, the possession of which is prohibited*  
16 *under that division.*

17    (3) *Article 2 (commencing with Section 23152) of*  
18 *Chapter 12 of Division 11.*

19    (d) *Suspension or delay of driving privileges pursuant*  
20 *to this section shall be in addition to any penalty imposed*  
21 *upon conviction of any violation specified in subdivision*  
22 *(c), unless the court has ordered suspension, revocation,*  
23 *or restriction as required under Section 13202 or 13202.5.*

24    (e) *This section shall remain in effect only until March*  
25 *1, 1997, and as of that date is repealed, unless a later*  
26 *enacted statute, which is enacted before that date,*  
27 *deletes or extends the date.*

28    SEC. 2. *Section 14907 is added to the Vehicle Code, to*  
29 *read:*

30    14907. (a) *Notwithstanding any other provision of*  
31 *this code, in lieu of the fees in Section 14904, before a*  
32 *driver’s license may be issued, reissued, or returned to a*  
33 *person after the suspension or delay of the person’s*  
34 *privilege to operate a motor vehicle pursuant to Section*  
35 *13202.3, there shall be paid to the department a fee in an*  
36 *amount of twenty-four dollars (\$24) to pay the costs of the*  
37 *administration of these license actions by the*  
38 *department.*

39    (b) *This section does not apply to a suspension or*  
40 *revocation that is set aside by the department or a court.*

1 (c) This section shall remain in effect only until March  
2 1, 1997, and as of that date is repealed, unless a later  
3 enacted statute, which is enacted before that date,  
4 deletes or extends the date.

5 SEC. 3. Notwithstanding Section 17610 of the  
6 Government Code, if the Commission on State Mandates  
7 determines that this act contains costs mandated by the  
8 state, reimbursement to local agencies and school  
9 districts for those costs shall be made pursuant to Part 7  
10 (commencing with Section 17500) of Division 4 of Title  
11 2 of the Government Code. If the statewide cost of the  
12 claim for reimbursement does not exceed one million  
13 dollars (\$1,000,000), reimbursement shall be made from  
14 the State Mandates Claims Fund.

15 Notwithstanding Section 17580 of the Government  
16 Code, unless otherwise specified, the provisions of this act  
17 shall become operative on the same date that the act  
18 takes effect pursuant to the California Constitution.

19 SEC. 4. This act is an urgency statute necessary for the  
20 immediate preservation of the public peace, health, or  
21 safety within the meaning of Article IV of the  
22 Constitution and shall go into immediate effect. The facts  
23 constituting the necessity are:

24 In order to avoid jeopardizing the receipt of federal  
25 transportation funds, it is necessary that this act take  
26 effect immediately.

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**All matter omitted in this version of the  
bill appears in the bill as amended in the  
Senate, August 5, 1996 (JR 11)**